THE HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION No.1741 of 20050

19.12.2005

Between:

A.P. State Road Transport Corporation, Mushirabad, Hyderabad

And another

… Petitioners

AND

State Transport Appellate Tribunal, A.P., Hyderabad

and others

… Respondents

THE HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION No.1741 of 2000

ORDER:

A.P. State Road Transport Corporation (RTC, for brevity) and its Regional Manager filed the instant writ petition aggrieved by the order dated 17.3.1999 in A.P.No.515 of 1997 passed by State Transport Appellate Tribunal (STAT), the first respondent herein, directing the second respondent to issue stage carriage permit, in favour of third respondent, as town service on the modified route from Tuni market center to Kothavelamapet via Travellors Bungalow etc. The writ petition was admitted by this Court on 08.2.2000. Even after receipt of the notice, the third respondent did not appear either in person or through a counsel. Therefore, the matter is being disposed of after hearing the writ petitioners.

The third respondent herein filed an application before the second respondent for grant of pucca stage carriage permit to ply a bus on the route from Tuni market center to B.B.Patnam via Travellors Bungalow, Sitaramapuram junction etc. The application was opposed by RTC. The second respondent came to the conclusion that the route applied for overlaps a distance of 0.3 kms as per the scheme approved in G.O.Ms. No.782/72, which totally prohibits any overlapping and accordingly the request of the third respondent was rejected. The third respondent filed appeal being A.P.No.515 of 1997. While the matter was pending, the third respondent filed an application M.P.No.84 of 1999 before STAT seeking modification of route by restricting the route from Tuni market center to Kothavelamapet on the ground that the proposed route would not overlap the notified scheme route as approved in G.O.Ms. No.782/72. Taking this into consideration, the first respondent allowed the appeal and directed the second respondent to issue the stage carriage permit as town service route.

The learned Counsel for the petitioner submits that STAT has no power to entertain the application under Section 72 of Motor Vehicles Act, 1988 (the Act, for brevity)

seeking modification of the route and alternately he submits that under Section 72(1) of the Act, no modification can be permitted by RTA or STAT whenever the modification results in granting a permit for a route/area, which was not applied originally. He placed reliance on the judgment of Allahabad High Court in **Anil Kumar v STAT, U.P.** and an unreported judgment delivered by me in **APSRTC v STAT, A.P.**.

In the unreported judgment referred to hereinabove considering Section 72 of the Act, in the light of the definition of 'Route', as per Section 2(38) of the Act, I have held as under.

> The power which inheres in the R.T.A. under sub-section (1) of Section 72 of the Act to grant a stage carriage permit with or without modification in its discretion by the R.T.A. as per sub-section (1) of Section 72. By reason of the proviso, the R.T.A. cannot grant permit to anybody in respect of any route or area which is not specified in the application. As a necessary corollary, if a modification sought by an applicant subsequently either before the R.T.A. or before the STAT is quite contrary to the application initially made, in that, the route in respect of which permit sought is changed, the R.T.A. has no such power to grant permit. It would be altogether a different thing if an applicant withdraws the original application and makes a new application in respect of another route. The intention of the Legislature in indicating the proviso is in a way to circumscribe the exercise of power on the well known principle that no authority can grant a permit for a thing which is not asked for.

In this case, the third respondent sought for a pucca stage carriage permit on the route from Tuni market center to B.B.Patnam. The same was rejected. Before the STAT, he sought for a stage carriage permit on the town service route from Tuni market center to Kothavelamapet, which is certainly a different route and a modification of the earlier route applied for. Therefore, STAT could not have granted the permit. In that view of the matter, the impugned order suffers from patent error apparent on the face of record and therefore, the impugned order of the first respondent is unsustainable.

In the result, for the above reasons, the writ petition is allowed without costs.

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(**V.V.S.RAO, J**)

December 19, 2005.

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